

FIRST DIVISION

[G.R. NO. 152133, February 09, 2006]

**ROLLIE CALIMUTAN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, ET AL., RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

In this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, petitioner Rollie Calimutan prays for the reversal of the Decision of the Court of Appeals in CA-G.R. CR No. 23306, dated 29 August 2001,^[1] affirming the Decision of the Regional Trial Court (RTC), Branch 46, of Masbate, Masbate, in Criminal Case No. 8184, dated 19 November 1998,^[2] finding petitioner Calimutan guilty beyond reasonable doubt of the crime of homicide under Article 249 of the Revised Penal Code.

The Information^[3] filed with the RTC charged petitioner Calimutan with the crime of homicide, allegedly committed as follows –

That on or about February 4, 1996, in the morning thereof, at sitio Capsay, Barangay Panique, Municipality of Aroroy, Province of Masbate, Philippines within the jurisdiction of this Honorable Court, the above-named accused with intent to kill, did then and there willfully, unlawfully and feloniously attack, assault and throw a stone at PHILIP CANTRE, hitting him at the back left portion of his body, resulting in laceration of spleen due to impact which caused his death a day after.

CONTRARY TO LAW.

Masbate, Masbate, September 11, 1996.

Accordingly, the RTC issued, on 02 December 1996, a warrant^[4] for the arrest of petitioner Calimutan. On 09 January 1997, however, he was provisionally released^[5] after posting sufficient bailbond.^[6] During the arraignment on 21 May 1997, petitioner Calimutan pleaded not guilty to the crime of homicide charged against him.^[7]

In the course of the trial, the prosecution presented three witnesses, namely: (1) Dr. Ronaldo B. Mendez, a Senior Medico-Legal Officer of the National Bureau of Investigation (NBI); (2) Belen B. Cantre, mother of the victim, Philip Cantre; and (3) Rene L. Sañano, companion of the victim Cantre when the alleged crime took place. Their testimonies are collectively summarized below.

On 04 February 1996, at around 10:00 a.m., the victim Cantre and witness Sañano, together with two other companions, had a drinking spree at a videoke bar in Crossing Capsay, Panique, Aroroy, Masbate. From the videoke bar, the victim Cantre

and witness Sañano proceeded to go home to their respective houses, but along the way, they crossed paths with petitioner Calimutan and a certain Michael Bulalacao. Victim Cantre was harboring a grudge against Bulalacao, suspecting the latter as the culprit responsible for throwing stones at the Cantre's house on a previous night. Thus, upon seeing Bulalacao, victim Cantre suddenly punched him. While Bulalacao ran away, petitioner Calimutan dashed towards the backs of victim Cantre and witness Sañano. Petitioner Calimutan then picked up a stone, as big as a man's fist, which he threw at victim Cantre, hitting him at the left side of his back. When hit by the stone, victim Cantre stopped for a moment and held his back. Witness Sañano put himself between the victim Cantre and petitioner Calimutan, and attempted to pacify the two, even convincing petitioner Calimutan to put down another stone he was already holding. He also urged victim Cantre and petitioner Calimutan to just go home. Witness Sañano accompanied victim Cantre to the latter's house, and on the way, victim Cantre complained of the pain in the left side of his back hit by the stone. They arrived at the Cantre's house at around 12:00 noon, and witness Sañano left victim Cantre to the care of the latter's mother, Belen.^[8]

Victim Cantre immediately told his mother, Belen, of the stoning incident involving petitioner Calimutan. He again complained of backache and also of stomachache, and was unable to eat. By nighttime, victim Cantre was alternately feeling cold and then warm. He was sweating profusely and his entire body felt numb. His family would have wanted to bring him to a doctor but they had no vehicle. At around 3:00 a.m. of the following day, 05 February 1996, Belen was wiping his son with a piece of cloth, when victim Cantre asked for some food. He was able to eat a little, but he also later vomited whatever he ate. For the last time, he complained of backache and stomachache, and shortly thereafter, he died.^[9]

Right after his death, victim Cantre was examined by Dr. Conchita S. Ulanday, the Municipal Health Officer of Aroroy, Masbate. The Post-Mortem Examination Report^[10] and Certification of Death,^[11] issued and signed by Dr. Ulanday, stated that the cause of death of victim Cantre was cardio-respiratory arrest due to suspected food poisoning. The body of victim Cantre was subsequently embalmed and buried on 13 February 1996.

Unsatisfied with the findings of Dr. Ulanday, the Cantre family, with the help of the Lingkod Bayan-Circulo de Abogadas of the ABS-CBN Foundation, requested for an exhumation and autopsy of the body of the victim Cantre by the NBI. The exhumation and autopsy of the body of the victim Cantre was conducted by Dr. Ronaldo B. Mendez on 15 April 1996,^[12] after which, he reported the following findings –

Body; fairly well-preserved with sign of partial autopsy; clad in white Barong Tagalog and blue pants placed inside a wooden golden-brown coffin and buried in a concrete niche.

Contused-abrasion, 2.3 x 1.0 cms., posterior chest wall, left side.

Hematoma, 16.0 x 8.0 cms., abdomen, along mid-line.

Hemoperitoneum, massive, clotte [*sic*].

Laceration, spleen.

Other visceral organ, pale and embalmed.

Stomach contains small amount of whitish fluid and other partially digested food particles.

x x x x

CAUSE OF DEATH: TRAUMATIC INJURY OF THE ABDOMEN.

In his testimony before the RTC, Dr. Mendez affirmed the contents of his exhumation and autopsy report. He explained that the victim Cantre suffered from an internal hemorrhage and there was massive accumulation of blood in his abdominal cavity due to his lacerated spleen. The laceration of the spleen can be caused by any blunt instrument, such as a stone. Hence, Dr. Mendez confirmed the possibility that the victim Cantre was stoned to death by petitioner Calimutan.^[13]

To counter the evidence of the prosecution, the defense presented the sole testimony of the accused, herein petitioner, Calimutan.

According to petitioner Calimutan, at about 1:00 p.m. on 04 February 1996, he was walking with his house helper, Michael Bulalacao, on their way to Crossing Capsay, Panique, Aroroy, Masbate, when they met with the victim Cantre and witness Sañano. The victim Cantre took hold of Bulalacao and punched him several times. Petitioner Calimutan attempted to pacify the victim Cantre but the latter refused to calm down, pulling out from his waist an eight-inch Batangas knife and uttering that he was looking for trouble, either "to kill or be killed." At this point, petitioner Calimutan was about ten meters away from the victim Cantre and was too frightened to move any closer for fear that the enraged man would turn on him; he still had a family to take care of. When he saw that the victim Cantre was about to stab Bulalacao, petitioner Calimutan picked up a stone, which he described as approximately one-inch in diameter, and threw it at the victim Cantre. He was able to hit the victim Cantre on his right buttock. Petitioner Calimutan and Bulalacao then started to run away, and victim Cantre chased after them, but witness Sañano was able to pacify the victim Cantre. Petitioner Calimutan allegedly reported the incident to a *kagawad* of Barangay Panique and to the police authorities and sought their help in settling the dispute between Bulalacao and the victim Cantre. Bulalacao, meanwhile, refused to seek medical help despite the advice of petitioner Calimutan and, instead, chose to go back to his hometown.^[14]

Petitioner Calimutan was totally unaware of what had happened to the victim Cantre after the stoning incident on 04 February 1996. Some of his friends told him that they still saw the victim Cantre drinking at a videoke bar on the night of 04 February 1996. As far as he knew, the victim Cantre died the following day, on 05 February 1996, because of food poisoning. Petitioner Calimutan maintained that he had no personal grudge against the victim Cantre previous to the stoning incident.^[15]

On 19 November 1998, the RTC rendered its Decision,^[16] essentially adopting the prosecution's account of the incident on 04 February 1996, and pronouncing that –

It cannot be legally contended that the throwing of the stone by the accused was in defense of his companion, a stranger, because after the boxing Michael was able to run. While it appears that the victim was the unlawful aggressor at the beginning, but the aggression already ceased after Michael was able to run and there was no more need for throwing a

stone. The throwing of the stone to the victim which was a retaliatory act can be considered unlawful, hence the accused can be held criminally liable under paragraph 1 of Art. 4 of the Revised Penal Code.

The act of throwing a stone from behind which hit the victim at his back on the left side was a treacherous one and the accused committed a felony causing physical injuries to the victim. The physical injury of hematoma as a result of the impact of the stone resulted in the laceration of the spleen causing the death of the victim. The accused is criminally liable for all the direct and natural consequences of this unlawful act even if the ultimate result had not been intended. (Art. 4, Par. 1, Revised Penal Code; People vs. Narciso, CA-G.R. No. 03532-CR, Jan. 13, 1964)

One is not relieved from criminal liability for the natural consequences of one's illegal acts merely because one does not intend to produce such consequences (U.S. vs. Brobst, 14 Phil. 310).

The crime committed is Homicide as defined and penalized under Art. 249 of the Revised Penal Code.

WHEREFORE, the Court finds and so holds that accused ROLLIE CALIMUTAN is GUILTY beyond reasonable doubt of the crime of Homicide defined and penalized under Art. 249 of the Revised Penal Code with no mitigating or aggravating circumstance and applying the Indeterminate Sentence Law hereby imposes the penalty of imprisonment from EIGHT (8) YEARS of Prison Mayor as minimum, to TWELVE (12) YEARS and ONE (1) DAY of Reclusion Temporal as maximum, and to indemnify the heirs of Philip Cantre the sum of Fifty Thousand (P50,000.00) Pesos as compensatory damages and the sum of Fifty Thousand (P50,000.00) Pesos as moral damages, without subsidiary imprisonment in case of insolvency.

Petitioner Calimutan appealed the Decision of the RTC to the Court of Appeals. The Court of Appeals, in its Decision, dated 29 August 2001,^[17] sustained the conviction of homicide rendered by the RTC against petitioner Calimutan, ratiocinating thus –

The prosecution has sufficiently established that the serious internal injury sustained by the victim was caused by the stone thrown at the victim by the accused which, the accused-appellant does not deny. It was likewise shown that the internal injury sustained by the victim was the result of the impact of the stone that hit the victim. It resulted to a traumatic injury of the abdomen causing the laceration of the victim's spleen.

This is clearly shown by the autopsy report prepared by Dr. Ronaldo Mendez, a Senior Medico Legal Officer of the NBI after the exhumation of the victim's cadaver...

The Court cannot give credence to the post mortem report prepared by Municipal Health Officer Dr. Conchita Ulanday stating that the cause of the victim's death was food poisoning. Dr. Ulanday was not even

presented to testify in court hence she was not even able to identify and/or affirm the contents of her report. She was not made available for cross-examination on the accuracy and correctness of her findings.

Dr. Conchita Ulanday's post mortem report cannot prevail over the autopsy report (Exh. "C") of the Medico-Legal Officer of the NBI who testified and was cross-examined by the defense.

Besides, if accused-appellant was convinced that the victim indeed died of food poisoning, as reported by Dr. Conchita Ulanday, why did they not present her as their witness to belie the report of the Medico-Legal Officer of the NBI.

The trial court's evaluation of the testimony of Dr. Mendez is accorded the highest respect because it had the opportunity to observe the conduct and demeanor of said witness.

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Masbate, Branch 46, finding accused-appellant guilty beyond reasonable doubt of the crime of homicide is hereby AFFIRMED.

The Court of Appeals, in its Resolution, dated 15 January 2002,^[18] denied the Motion for Reconsideration filed by petitioner Calimutan for lack of merit since the issues raised therein had already been passed and ruled upon in its Decision, dated 29 August 2001.

Comes now petitioner Calimutan, by way of the present Petition for Review on *Certiorari*, seeking (1) the reversal of the Decisions of the RTC, dated 19 November 1998, and of the Court of Appeals, dated 29 August 2001, convicting him of the crime of homicide; and, (2) consequently, his acquittal of the said crime based on reasonable doubt.

Petitioner Calimutan contended that the existence of the two autopsy reports, with dissimilar findings on the cause of death of the victim Cantre, constituted reasonable doubt as to the liability of petitioner Calimutan for the said death, arguing that –

x x x [I]t was Dra. Conchita Ulanday, Municipal Health Officer of Aroroy, Masbate was the first physician of the government who conducted an examination on the cadaver of the victim Philip Cantre whose findings was that the cause of his death was due to food poisoning while the second government physician NBI Medico Legal Officer Dr. Ronaldo Mendez whose findings was that the cause of the death was due to a traumatic injury of the abdomen caused by a lacerated spleen and with these findings of two (2) government physicians whose findings are at variance with each other materially, it is humbly contended that the same issue raised a reasonable doubt on the culpability of the petitioner.

As there are improbabilities and uncertainties of the evidence for the prosecution in the case at bar, it suffices to raise [*sic*] reasonable doubt as to the petitioner's guilt and therefore, he is entitled to acquittal (People vs. Delmendo, G.R. No. 32146, November 23, 1981).^[19]